



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MPA - 177773

PRELIMINARY RECITALS

Pursuant to a petition filed on November 2, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability (DHCAA) modifying a Medical Assistance (MA) prior authorization (PA) request for personal care worker (PCW) services, a hearing was held on December 6, 2016, by telephone. The hearing record was held open for an additional eighteen days to allow the petitioner an opportunity to submit additional medical records in support of the PA, which were received.

The issue for determination is whether the DHCAA correctly modified a PA request for PCW services resulting in a reduction in the number of PCW service hours allowed.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

█
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Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: [REDACTED], RN consultant, by written submission only
Division of Health Care Access and Accountability
PO Box 309
Madison, WI 53701-0309

ADMINISTRATIVE LAW JUDGE:

Kristin P. Fredrick
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a 53-year old resident of Milwaukee County. The petitioner resides alone.
2. The petitioner is diagnosed as morbidly obese with hypertension, high cholesterol, asthma and chronic pain. He receives PCW services from Cherubs Homecare Services, LLC to assist him in activities of daily living including bathing, dressing, and grooming.
3. On October 1, 2016 Cherubs Homecare Services submitted a Prior Authorization (PA) request for 23.5 hours (94 units) per week of PCW services, PA No. [REDACTED]. The PA sought PCW services to assist the petitioner with bathing, dressing, grooming, eating, mobility, toileting/incontinence, transfers, and medication assistance.
4. On October 12, 2016 the DHCAA modified the PA request to 11 hours (44 units) per week of PCW services. The DHCAA denied PCW services for dressing the petitioner's upper body, eating assistance, mobility, toileting, transfers or medication assistance because the documentation submitted by the provider did not support the requested services.

DISCUSSION

Personal care worker services (PCW) are an MA-covered service, subject to prior authorization. Wis. Admin. Code §DHS 107.112(2). In determining whether to approve PA requests for PCW services, DHCAA employs the generic prior authorization criteria found at Wis. Admin. Code §DHS 107.02(3)(e). Like all medical assistance services, PCW services must be medically necessary and cost effective. Wis. Admin. Code, §DHS 107.02(3)(e)1 and 3. PCW services are defined as “medically oriented activities related to assisting a recipient with activities of daily living necessary to maintain the recipient in his or her place of residence in the community.” Wis. Admin. Code §DHS 107.112(1)(a). Covered services include the following:

1. Assistance with bathing;
2. Assistance with getting in and out of bed;
3. Teeth, mouth, denture and hair care;
4. Assistance with mobility and ambulation including use of walker, cane or crutches;
5. Changing the recipient's bed and laundering the bed linens and the recipient's personal clothing;
6. Skin care excluding wound care;
7. Care of eyeglasses and hearing aids;
8. Assistance with dressing and undressing;
9. Toileting, including use and care of bedpan, urinal, commode or toilet;
10. Light cleaning in essential areas of the home used during personal care service activities;
11. Meal preparation, food purchasing and meal serving;
12. Simple transfers including bed to chair or wheelchair and reverse; and
13. Accompanying the recipient to obtain medical diagnosis and treatment.

Wis. Admin. Code, §DHS 107.112(b).

The DHCAA utilizes a Personal Care Screening Tool (PCST), a computer program it believes will allow it to consistently determine the number of hours required by each recipient. The screening tool allots a specific amount of time in each area the recipient requires help, which the DHCAA's reviewer can then adjust to account for variables missing from the screening tool's calculations. The Department also uses a Personal Care Activity Time Allocation Table to determine allotted times for PCW tasks, which the DHCAA follows unless the request explains specifically why additional time is necessary. The Table is found at Attachment 4 to Nurse Consultant Thompson's November 11, 2016 case summary.

The petitioner does not believe that the modified reduction in requested PCW weekly hours is sufficient for a personal care worker to thoroughly clean how he wants it done, to prepare meals, complete laundry or assist him with bathing or dressing. The petitioner testified that activities take longer because he resides in a two-story building. The record was held open to allow the petitioner to provide additional records and documentation to support why additional PCW hours is medically necessary. The petitioner submitted records from 2012 and 2015 related to complaints of knee pain and treatment provided to his lacerated finger. None of the additional records supports a present need for increased PCW service hours for dressing, eating assistance, mobility, toileting, transfers or medication assistance.

Based upon the evidence presented I find that the petitioner failed to present sufficient evidence or testimony to overcome the Department's clear policy on activity time allocation nor has the petitioner demonstrated that the DHCAA's modification to the PA is incorrect.

CONCLUSIONS OF LAW

The DHCAA correctly determined that the petitioner does not require *more* than 11 PCW hours (44 units) per week for the one year period beginning September 28, 2016.

THEREFORE, it is

ORDERED

That the petition is hereby dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

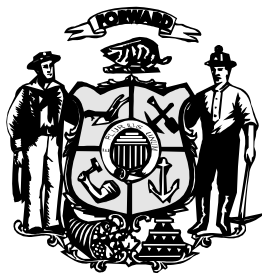
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 6th day of January, 2017

\s _____
Kristin P. Fredrick
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on January 6, 2017.

Division of Health Care Access and Accountability